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[REDACTED]  
[REDACTED]  
OCT 5 1990

CERTIFIED MAIL

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code.

The information submitted indicates that you were incorporated under the laws of the State of [REDACTED] on [REDACTED].

Your purpose as stated in your Articles of Incorporation is to provide an entity pursuant to [REDACTED], as amended, here in after called the Act, in accordance with the Declaration, for the operation of [REDACTED].

Income is primarily from dues and assessments of members. Expenditures are for operating expenses of the condominium.

Your activities consist of providing lawn care, snow removal, exterior maintenance, common area of interior maintenance, and other services normally performed by a condominium unit owners association.

A condominium is defined by statute in the state in which the organization is located as an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with separate interest in space in a residential, industrial, or commercial building on such real property, such as an apartment, office, or store. The statute provides that the owner of a condominium unit individually owns the interior surfaces of the perimeter walls, floors, ceilings, windows, and doors of his unit.

The statute further provides that the common areas of the condominium property are owned by the unit owners as tenants in common, in equal shares, one for each unit.

Section 501(c)(4) of the Internal Revenue Code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2) of the regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community.

In Revenue Ruling 69-280, 1969-1 C.B., 152, the Service held that an organization formed to provide maintenance of exterior walls and roofs of homeowner members in a development was not exempt as a social welfare organization. In denying exemption under Internal Revenue Code section 501(c)(4), the Service viewed the organization as operating primarily and directly for the benefit of its individual members rather than for the community as a whole.

In Revenue Ruling 74-17, 1974-1 C.B. 130, an organization formed by the unit owners of a condominium housing project to provide for the management, maintenance, and care of the common areas of the project, as defined by state statute with membership assessments paid by unit owners does not qualify for exemption.

In Revenue Ruling 74-99, 1974-1 C.B. 131, a non-profit organization formed to preserve the architecture and appearance of a housing development, and to own and maintain common green areas, streets, and sidewalks for use of all the development residents qualified for exemption; however contributions to the organization were not deductible.

To qualify for exemption, a homeowners' association must serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental. It must not conduct activities directed to the exterior maintenance of private residences, and the common areas it owns and maintains must be for the use and enjoyment of the general public.

By virtue of the essential nature and structure of a condominium system of ownership, the rights, duties, privileges, and immunities of the members of an association of unit owners in a condominium property derive from, and are established by, statutory and contractual provisions and are inextricably and compulsorily tied to the owner's acquisition and enjoyment of his property in the condominium. In addition, condominium ownership necessarily involves ownership in common by all condominium unit owners of a great many so-called common areas, the maintenance and care of which necessarily constitutes the provisions of private benefits for the unit owners.

[REDACTED]

Since the organization's activities are for the private benefit of its members, it cannot be said to be operated exclusively for the promotion of social welfare. Accordingly, you do not qualify for exemption from Federal income tax under section 501(c)(4) of the Code. In accordance with this determination, you are required to file Federal income tax returns on Form 1120.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office, or if you request, at any mutually convenient District Office. If we do not hear from you within 30 days from the date of this letter, this determination will become final.

Sincerely yours,

[REDACTED]

District Director

Enclosure: Publication 892